THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 15942 of 1999

Oral order:

The petitioner was appointed as Driver in the respondents-APSRTC in 1990. The petitioner states that as he was unwell, he absented himself from duty for a period of ten days, and for such absence, respondent No.3 issued charge sheet dated 27.02.1996. The petitioner states that immediately on 05.03.1996, he approached respondent No.3 and submitted a leave letter, supported by a Medical Certificate, issued by the Doctor who treated him, but respondent No.1 without considering the same and without conducting any enquiry, issued proceedings dated 01.07.1996 disengaging his services. Assailing the said proceedings, the petitioner preferred appeal to respondent No.2, and the same is stated to be still pending. The petitioner states that he made several representations to respondent No.2 in vain. Therefore, he decided to meet respondent No.1, and while on his way to meet respondent No.1, he met with an accident and suffered injuries to his right leg. After his recuperation, the petitioner states that he made representation dated 10.03.1999 to respondent No.1 to provide him alternate employment and the same is pending.

The learned counsel for the petitioner submitted that no enquiry whatsoever was conducted by respondent No.3 before disengaging his services, and as such, the order dated 01.07.1996, passed by respondent No.3 disengaging his services, be set aside, and inasmuch as the petitioner on his way to meet respondent No.1 in connection with the non-disposal of the appeal by respondent No.2, met with an accident and suffered injury to his right leg and became disabled, having regard to the provisions of Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (for short 'the Disabilities Act'), is entitled to be provided alternative employment, and the action of the respondents in not providing alternative employment, is illegal and arbitrary.

The respondents filed counter. The learned Standing Counsel for the respondents reiterating the counter averments submitted that the petitioner is not a

regular Driver, he is a casual Driver. As the petitioner without any prior permission absented himself from duty for a period of ten days from 06.02.1996 to 20.02.1996, and therefore, he was issued charge-sheet. Thereafter, the petitioner again without prior permission absented from duty from 05.06.1996 to 30.06.1996. He submitted that as per Clause 3 of the Office Order No. E1/145(8)/94-BPRT, dated 02.04.1994, the Casual Drivers are liable for termination at any time without assigning any reasons, and as the petitioner absented from duty without prior permission, respondent No.3 passed orders dated 01.071.996, disengaging the services of the petitioner. He denied that the petitioner preferred appeal, and submitted that the petitioner is no more the employee of the respondents from 01.07.1996. He submitted that the petitioner not being an employee of the respondents, and he having met with an accident while not in service with the respondents, is not entitled for alternative employment under the provisions of the Disabilities Act. He thus prayed that the writ petition be dismissed.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents.

The petitioner is a Casual Driver. For the unauthorized absence of the petitioner from 06.02.1996 to 20.02.1996, respondent No.3 issued charge sheet, and though the petitioner contends that respondent No.3 without considering his illness and the Medical Certificate, produced by him, has passed order dated 01.07.1996 disengaging his services, it is the case of the respondents that the petitioner again absented himself from duty unauthorizedly from 05.06.1996 to 30.06.1996, and having regard to Clause 3 of Office Order No. E1/145(8)/94-BPRT, dated 02.04.1994, which states that Casual Drivers are liable for termination at any time without assigning any reasons, respondent No.3 passed the order dated 01.07.1996, disengaging the services of the petitioner. Since the petitioner is a Casual Driver, having regard to Clause 3 of the Office Order No. E1/145(8)/94-BPRT, dated 02.04.1994, no exception can be taken thereto. Though the petitioner contends that he filed appeal before respondent No.2 against the order passed by respondent No.3 disengaging his services, and while on his way to meet to respondent No.1 to complain about the non-disposal of appeal by respondent No.2, he met with an accident, and as such, he is entitled to be provided alternative employment, the fact remains, it is the specific case of the respondents that petitioner did not prefer any appeal to respondent No.2 against the order passed by

respondent No.3, disengaging his services, and the petitioner pursuant to the order of respondent No.3, is not the employee of respondents, and since the petitioner met with an accident while he was not the employee of the respondents, he is not entitled to be provided alternative employment under the Disabilities Act. Inasmuch as the petitioner as on the date of his accident and suffering of disability, was not on the rolls of respondents, he is not entitled to be provided alternative employment under the provisions of the Disabilities Act, and no exception can be taken to the action of the respondents in not providing alternative employment to the petitioner by setting aside the order dated 01.07.1996 passed by respondent No.3, disengaging his services.

For the foregoing reasons, I find no merit in the writ petition, and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: 13.12.2005.

KSR/DA